STATE OF MICHIGAN

COURT OF APPEALS

MARY L. PETERSON,

Plaintiff-Appellant,

v

ART VAN FURNITURE and DAVID MCKNIGHT,

Defendants-Appellees.

UNPUBLISHED
April 29, 2003

No. 233745
Macomb Circuit Court
LC No. 98-002580-NO

Before: Jansen, P.J., and Hoekstra and Gage, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order confirming an arbitration award in favor of defendants Art Van Furniture (Art Van) and David McKnight. The arbitration award dismissed plaintiff's claims of breach of contract, violations of the Family Medical Leave Act of 1993 (FMLA), 29 CFR 825 *et seq.*, and intentional infliction of emotional distress. We affirm.

This case arises from plaintiff's termination of her employment from Art Van. When plaintiff initially applied for employment with Art Van in 1993, she completed and signed an employment application containing language whereby she agreed to submit to final and binding arbitration of any employment-related claims, including any claim that the discharge was without cause, any claim that the discharge violated a Michigan or Federal statute, and any tort claims arising out of the termination. Further, plaintiff agreed not to commence any action or suit relating to her employment more than six months after the date of termination and to waive any statute of limitations to the contrary.

Plaintiff was also provided with a copy of the Employee Handbook, which provides for a procedure to file a grievance and initiate arbitration of a dispute after an employee is discharged. The handbook clearly states that arbitration is the sole remedy available to a discharged employee. Art Van also maintains an "Open Door" policy encouraging employees to resolve any employment dispute internally.

Following a medical leave of absence in July 1997, plaintiff was terminated for failing to report to work for three consecutive days. In June 1998, approximately ten months after her termination, plaintiff instituted an action in circuit court against defendants, alleging breach of contract, FMLA violations and intentional infliction of emotional distress. The trial court granted summary disposition pursuant to MCR 2.116(C)(7) on the basis that plaintiff's claims

were subject to mandatory arbitration and dismissed her claims with prejudice.[1] The trial court further ordered that plaintiff's right to pursue arbitration was tolled during the pendency of the instant litigation.

Thereafter, the case proceeded to arbitration and the arbitrator issued an award dismissing plaintiff's claims as not arbitrable on procedural grounds. The arbitrator found that plaintiff failed to file her claim within the six-month limitations period for filing suit contained in the employment application, she did not use the "Open Door Procedure" for appeal and dispute resolution purposes, and she did not file a grievance within seven days of her termination or utilize the appeals process outlined in the Employee Handbook. Finding the claims not arbitrable, the arbitrator did not reach the merits of plaintiff's claims. The trial court thereafter confirmed the award.

Plaintiff's appeal challenges the scope, validity and enforceability of the agreement to arbitrate her claims and to waive the statute of limitations. We review de novo a trial court's decision to enforce, vacate, or modify an arbitration award. *Gordon Sel-Way, Inc v Spence Bros, Inc*, 438 Mich 488, 496-497; 475 NW2d 704 (1991). Our review is limited, however, in that a court will only vacate or modify an arbitration decision where a clear error of law is evident on the face of the decision or where an arbitrator has exceeded his authority. *DAIIE v Gavin*, 416 Mich 407, 428-429; 331 NW2d 418 (1982); *Rembert v Ryan's Family Steak Houses, Inc*, 235 Mich App 118, 163-166; 596 NW2d 208 (1999). An arbitrator exceeds his authority if he acts beyond the material terms of the contract from which he draws his authority, or if he acts in contravention of controlling principles of law. *Dohanyos v Detrex Corp (After Remand)*, 217 Mich App 171, 176; 550 NW2d 608 (1996), citing *Gavin*, *supra* at 443-444. "The character or seriousness of an error of law that will require a court of law to vacate an arbitration award must be so material or so substantial as to have governed the award, and the error must be one but for which the award would have been substantially otherwise." *Id.* In addition, the existence and enforceability of an arbitration agreement are judicial questions that cannot be decided by an arbitrator. *Arrow Overall Supply Co v Peloquin Enterprises*, 414 Mich 95, 98-99; 323 NW2d 1 (1982); *Watts v Polaczyk*, 242 Mich App 600, 603; 619 NW2d 714 (2000). "[J]udicial questions, like questions of law, are reviewed de novo." *Watts, supra* at 603.

I. Claim that the arbitrator exceeded his scope of authority

Plaintiff first claims on appeal that the arbitrator exceeded his scope of authority in considering the arbitration agreement's limitations period. One ground for vacating a statutory arbitration exists when the arbitrator exceeded his or her granted powers. MCR 3.602(J)(1); *Dohanyos, supra* at 174-175.[2] To determine whether an arbitrator exceeded his scope of

[1] Plaintiff filed a claim of appeal from the trial court's order granting summary disposition before the trial court entered the order granting summary disposition. This Court dismissed her claim of appeal for lack of jurisdiction because the claim of appeal was premature as the trial court had not yet entered the order granting summary disposition. *Peterson v Art Van Furniture, Inc*, unpublished order of the Court of Appeals, entered October 12, 1999. On November 4, 1999, the trial court entered the order granting summary disposition. Plaintiff did not file a claim of appeal from the November 4, 1999 order granting summary disposition.

[2] Plaintiff contends that the agreement to arbitrate constitutes common-law arbitration. We (continued…)

authority, we examine whether the arbitrator rendered an award that comports with the material terms of the arbitration agreement. *Gavin, supra* at 434; *Dohanyos, supra* at 176-177.

Whether the issue of the timeliness of a claim is subject to arbitration is a question of contract interpretation. *Amtower v William C Roney & Co (On Remand)*, 232 Mich App 226, 234; 590 NW2d 580 (1998). Although the agreement to arbitrate at issue in this case did not expressly empower the arbitrator to resolve whether a claim was timely, it is evident by the agreement's language that the issue was arbitrable because it was within the contemplation of the agreement and the reasonable expectations of the parties. In addition, the agreement did not limit the arbitrator's power such that the agreement was not susceptible of an interpretation covering the timeliness dispute. See *Nielsen v Barnett*, 440 Mich 1, 9-12; 485 NW2d 666 (1992); *Amtower, supra* at 235; *Dohanyos, supra* at 177. "[T]here is a presumption of arbitrability 'unless it may be said with positive assurance that the arbitration clause is not susceptible of an interpretation that covers the asserted dispute."' *Amtower, supra* at 235, quoting *United Steelworkers of America v Warrior & Gulf Navigation Co*, 363 US 574, 582-583; 80 S Ct 1347; 4 L Ed 2d 1409 (1960). Further, the Employee Handbook, which the arbitration agreement incorporates by reference, specifically provides that the time limits included in the agreement are binding on the arbitrator. Accordingly, the agreement, by its clear and unambiguous terms, bound the arbitrator to its time limitations. *Beattie v Autosytle Plastics, Inc*, 217 Mich App 572, 577; 552 NW2d 181 (1996). Therefore, we find that the arbitrator acted within the scope of his authority by resolving whether plaintiff complied with the agreement's time limitations.

In addition, contrary to plaintiff's contention, the arbitrator did not ignore the court's order tolling her right to pursue arbitration because she filed her claim with the circuit court well after the agreement's limitations period had expired. Plaintiff agreed not to commence any action or suit relating to her employment for more than six months after the date of termination and to waive any statute of limitations to the contrary. Plaintiff filed her claim with the circuit court approximately ten months after her termination. Therefore, even though the court tolled her right to pursue arbitration during the trial court proceedings, plaintiff still failed to meet the agreement's limitations period.

II. Claim that plaintiff's cause of action is not barred by the agreement's limitations period

Plaintiff next claims on appeal that her cause of action is not barred by the six-month limitations period contained in her employment application. Plaintiff first briefly argues that she never agreed to an abbreviated limitations period because the employment application she signed related only to her first period of employment. Plaintiff also asserts that she never signed the acknowledgement form attached to the Employee Handbook containing the arbitration procedure and that she "exhaustively" attempted to use the "Open Door" policy to return to work. To the

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disagree. Because the arbitration agreement in this case included a provision for a judgment upon the arbitration award to be entered in a court, the arbitration agreement is a statutory arbitration agreement subject to Michigan's Arbitration Act. *Nielson v Barnett*, 440 Mich 1, 9 n 4; 485 NW2d 666 (1992); *Hetrick v Friedman*, 237 Mich App 264, 268-269; 602 NW2d 603 (1999).

extent plaintiff asserts that the agreement in the employment application was not in force at the time of her termination, we find little support for this claim.[3] In granting defendants' motion for summary disposition, the trial court found that a valid agreement to arbitrate existed based on the employment application and provisions in the Employee Handbook, and the arbitrator relied on these documents in rendering its decision.[4] Under the circumstances, we find no error. With regard to whether plaintiff agreed to the abbreviated limitations period and whether she attempted to use the "Open Door" policy to return to work, these are factual matters that are not subject to judicial review. *Krist v Krist*, 246 Mich App 59, 67; 631 NW2d 53 (2001) ("Claims that quarrel with an arbitrator's factual findings are not subject to judicial review"). Accordingly, plaintiff's first argument that her cause of action is not barred by the agreement's limitations period fails.

Plaintiff next argues that her cause of action is not barred by the six-month limitations period contained in her employment application because the period is unreasonable and abrogates her right to the statutory limitations period.[5] Generally, parties may contract for a limitations period shorter than the applicable statute of limitations provided that the abbreviated period remains reasonable. *Timko v Oakwood Custom Coating, Inc*, 244 Mich App 234, 239; 625 NW2d 101 (2001). "The period of limitation 'is reasonable if (1) the claimant has sufficient opportunity to investigate and file an action, (2) the time is not so short as to work a practical abrogation of the right of action, and (3) the action is not barred before the loss or damage can be ascertained.'" *Timko, supra* at 239-240, quoting *Herweyer v Clark Hwy Services*, 455 Mich 14, 20; 564 NW2d 857 (1997). In particular, employment contracts may include a shorter limitations period than a statutory limitations period. *Timko, supra* at 237, 243-244.

In *Timko, supra* at 244-245, this Court held that a six-month limitations period contained in an employment application was reasonable and thus, governed a civil rights claim. Like *Timko*, in this case, we find no inherent unreasonableness in the six-month limitations period; thus, the limitations period is enforceable against plaintiff. The record in this case reveals no explanation, nor does plaintiff provide any reasons on appeal, why the six-month limitations period did not provide her with a sufficient opportunity to investigate and file her action within the abbreviated period, why she could not have filed suit within six months of her termination, or

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[3] Plaintiff only briefly mentioned this claim in her brief on appeal, and gives very little support or elaboration for this claim. It appears plaintiff claims that she was "rehired" in 1996, and thus, a new employment application should have been filed. However, the evidence is scarce regarding this issue and plaintiff fails to elaborate in any depth.

[4] As noted previously, plaintiff prematurely appealed the decision before the trial court entered the order granting summary disposition; plaintiff did not thereafter file a claim of appeal after the trial court entered the order granting summary disposition.

[5] A breach of contract claim has a six-year statute of limitations. MCL 600.5807 (8); *Beattie v Autosytle Plastics Inc*, 217 Mich App 572, 577 ; 552 NW2d 181 (1996). A claim for intentional infliction of emotional distress has a three-year statute of limitations. MCL 600.5805 (9); *Smith v Mirror Lite Co*, 196 Mich App 190, 195; 492 NW2d 744 (1992) (holding that a claim brought as an action to recover for injury to a person is subject to a three-year statute of limitations). A claim under the FMLA must be made within two years of the alleged violation or within three years of a wilful violation. 29 CFR 825.400(b).

how her damages could not be ascertained within the six-month limitations period. *Timko, supra* at 239-240. Accordingly, based on the three-prong test this Court adopted in *Timko*, we find that plaintiff failed to demonstrate that the limitations period was unreasonable.

Plaintiff next argues that the American Association of Arbitrator's (AAA) National Rules for the Resolution of Employment Disputes require the application of the FMLA's two-year statutory time limitation. Plaintiff failed to assert any argument or authority for her assertion in her brief on appeal. Instead, plaintiff's argument amounts to one sentence with citation to the AAA rule. We will not search for authority to support or reject a party's position, *Davenport v Grosse Pointe Farms Bd of Zoning Appeals,* 210 Mich App 400, 405; 534 NW2d 143 (1995), nor will we address issues not adequately developed or briefed before this Court, *Alford v Pollution Control Industries of America,* 222 Mich App 693, 699; 565 NW2d 9 (1997). Thus, we decline to address this issue. We note briefly, however, that plaintiff's claim is without merit. The AAA's rules do not govern the limitations period for bringing a cause of action. In this case, plaintiff clearly and unambiguously waived the statute of limitations and cannot now argue that her waiver does not apply because the matter is subject to arbitration. Regardless whether plaintiff's claims were subject to arbitration or proceeded in court, she agreed to a six-month limitations period.

Plaintiff also argues that defendants never asserted the failure to file a timely arbitration as an affirmative defense. However, plaintiff again failed to assert any argument or authority for her assertion in her brief on appeal. As such, we decline to address this issue. *Alford, supra* at 699; *Davenport, supra* at 405. However, we briefly note that although defendants did not specifically assert as an affirmative defense plaintiff's failure to timely file arbitration, defendants' assertions regarding the timeliness of plaintiff's suit and the arbitration agreement put her on reasonable notice that defendants would defend on the basis of the agreement, which contains the time limitations. "[T]he primary function of a pleading in Michigan is to give notice of the nature of the claim or defense sufficient to permit the opposite party to take a responsive position." *Stanke v State Farm Mut Auto Ins Co,* 200 Mich App 307, 317; 503 NW2d 758 (1993). Therefore, plaintiff could not be unfairly surprised by the timeliness defense. Moreover, the timeliness of plaintiff's claim is a matter properly considered by the arbitrator and not the trial court.

III. Claim that the agreement to arbitrate violates public policy

Plaintiff next claims on appeal that the agreement to arbitrate is invalid and unenforceable because the agreement lacks mutual assent and is one of adhesion, the agreement's abbreviated limitations period and limited remedies deprived her of her substantive rights, and the agreement deprived her of her right to have her claims decided in a judicial forum.[6] Plaintiff failed to include this issue in her statement of questions presented.

[6] We reject defendants' contention that plaintiff failed to preserve this issue because it was not timely raised in the court below. The Michigan Supreme Court in *Arrow Overall Supply Co v Peloquin Enterprises,* 414 Mich 95, 97; 323 NW2d 1 (1982), held that a defense attacking the validity of an agreement to arbitrate may be raised for the first time in an action to confirm the arbitration award. "Since MCL 600.5025 [granting jurisdiction to the trial court to enforce the agreement] . . . is the jurisdictional basis on which the court may enter judgment on an award, the (continued…)

Accordingly, this issue is not properly presented for our review. MCR 7.212(C)(5); *Wallad v Access BIDCO, Inc*, 236 Mich App 303, 309; 600 NW2d 664 (1999). However, because both parties extensively addressed this issue on appeal, we will review it.

Plaintiff's argument largely focuses on her statutory claim under the FMLA. In *Rembert*, this Court held that agreements to arbitrate statutory employment discrimination claims are valid and enforceable if: (1) the parties agreed to arbitrate the claims, (2) the statute does not prohibit such agreements, and (3) the agreement does not waive the substantive rights and remedies of the statute and provides for fair arbitration procedures. *Rembert, supra* at 156. The arbitration agreement at issue in this case met these requirements; therefore, the agreement to arbitrate in this case is valid and enforceable.

First, the agreement to arbitrate is a valid contract. *Rembert, supra* at 157. To be valid, an arbitration agreement must meet the "general rules regarding the validity of contracts." *Id.* at 125. Plaintiff argues that the arbitration agreement is void because it lacks mutual assent. We disagree. "A basic requirement of contract formation is that the parties mutually assent to be bound." *Rood v General Dynamics Corp*, 444 Mich 107, 118; 507 NW2d 591 (1993). In this case, it is evident from the express words of the agreement and plaintiff's actions that the agreement did not lack mutual assent. See *id.* at 119. By signing the employment application, plaintiff clearly and unambiguously agreed to arbitrate any statutory claims of employment discrimination, such as her claim under the FMLA at issue here. A person who signs a written agreement is presumed to know the nature of the document and understand its contents, *McKinstry v Valley Obstetrics-Gynecology Clinic, PC*, 428 Mich 167, 184; 405 NW2d 88 (1987), and the terms of an employment application constitute part of an employment contract between the employee and the employer, *Timko, supra* at 244. The language "I further agree that the decision of the arbitrator is final and binding on the Company and me," reaffirms that its terms were intended to bind both Art Van and plaintiff, thus further evidencing a mutual assent. Moreover, plaintiff admitted that she signed the employment application, that she was provided with a copy of the Employee Handbook containing the arbitration procedure, and that the arbitration applied to her.[7]

Plaintiff also argues that the contract is void as a contract of adhesion because there was no arms-length bargaining. This Court recently concluded that a contract is not invalid as an adhesion contract where the challenged provision is reasonable "even if the employee did not

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presence of a binding agreement is a condition precedent to exercise of the court's jurisdiction." *Id.* at 98. "Whenever the jurisdiction of an arbitrator is questioned, it must be determined in order to make an award on arbitration binding." *Id*. at 98-99. "[I]t is well settled that a party may challenge the subject-matter jurisdiction of a court at any time, even for the first time on appeal." *McFerren v B & B Investment Group*, 233 Mich App 505, 511-512; 592 NW2d 782 (1999); see also *Fraternal Order of Police v Bensinger*, 122 Mich App 437, 440-441; 333 NW2d 73 (1983).

[7] Contrary to plaintiff's contention on appeal, we find no indication that Art Van unilaterally reserved the right to change the arbitration agreement. The arbitration agreement indicates that "only an agreement in writing signed by [the employee] and the President can modify the foregoing."

have a meaningful choice in signing it." *Rembert, supra* at 157 n 28. As already discussed, the agreement to arbitrate at issue in this case is reasonable, as a matter of law, because it did not deprive plaintiff of her statutory rights and remedies and is procedurally fair. See *id*.

Second, the FMLA does not prohibit arbitration. See *O'Neil v Hilton Head Hospital*, 115 F3d 272, 273-274 (CA 4, 1997) (concluding that a claim brought under the FMLA must go to arbitration). We will "not preclude arbitration absent an express statutory prohibition." *Rembert, supra* at 158.

Third, the agreement to arbitrate plaintiff's FMLA claim did not deprive plaintiff of her substantive rights or remedies. In addition, the agreement comports with the requisite procedural fairness.

Plaintiff argues that she has a non-negotiable statutory right to pursue her claim in a court of law. We disagree. Plaintiff relies on this Court's decision in *Rushton v Meijer Inc (On Remand),* 225 Mich App 156, 170; 570 NW2d 271 (1997), remanded 461 Mich 924 (1999), for her contention that an agreement to arbitrate statutory employment discrimination claims is void as unconscionable and violative of public policy. However, this Court overruled *Rushton* in *Rembert, supra* at 118. Thus, plaintiff's reliance on *Rushton* is misplaced. A waiver of a judicial forum does not mean a waiver of statutory rights. *Rembert, supra* at 138.

Plaintiff argues that the abbreviated limitations period deprived her of her substantive right to the two-year limitations period pursuant to the FMLA. In light of this Court's decision in *Timko,* which held that a six-month limitations period is reasonable and enforceable, we find that agreeing to a shorter limitations period does not deprive plaintiff of her right to adjudicate her FMLA claim. *Rembert, supra* at 138.[8]

Plaintiff also argues that the arbitration agreement deprived her of various remedies available for FMLA violations. We disagree. Although pursuant to the agreement, "the remedy of the arbitrator, if he finds the discharge was not for just cause, shall be reinstatement and the amount of back pay, if any, that he finds equitable, less any interim earnings and unemployment compensation benefits," the arbitrator, in accordance with the applicable rules of the American Arbitration Association, may grant any remedy or relief that the arbitrator deems just and equitable, including any remedy or relief that would have been available to the parties had the matter been heard in court."[9] Accordingly, the arbitrator was not limited to the relief cited in the

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[8] Plaintiff also contends that subjecting her to a grievance procedure deprived her of her substantive right. However, plaintiff failed to assert any additional argument or authority in support of her assertion that the seven-day grievance period was unreasonable in her brief on appeal. Instead, her argument consists of one sentence. We will not search for authority to support or reject a party's position, *Davenport v Grosse Pointe Farms Bd of Zoning Appeals*, 210 Mich App 400, 405; 534 NW2d 143 (1995), and decline to address this issue.

[9] The agreement at issue in this case provides for arbitration to be conducted pursuant to the American Arbitration Association, and those rules are incorporated be reference. National Rules for the Resolution of Employment Disputes, ¶ 1. Pursuant to those rules, where there is an adverse inconsistency between the arbitration agreement and the AAA rules, the AAA rules direct the arbitrator to apply the AAA rules. National Rules for the Resolution of Employment

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agreement and could award relief in the form of wages, employment benefits or other compensation, interest, employment, reinstatement and promotion, reasonable attorney fees and costs, as provided by the FMLA. 29 CFR 825.400(c). Accordingly, we find that plaintiff was not deprived of her right to the remedies available under the FMLA.

Plaintiff finally argues that the agreement to arbitrate lacked the requisite procedural fairness because it failed to provide her with clear notice that her claims would be subject to arbitration. Again, we disagree. The agreement clearly indicates that an employee is waiving her right to a judicial forum. In bold and capitalized font, the agreement states:

> IN CONSIDERATION OF THAT ARBITRATION REMEDY, I WAIVE ANY RIGHT TO COMMENCE ANY SUIT OR ACTION AGAINST THE COMPANY BECAUSE OF THE TERMINATION OF MY EMPLOYMENT.

Furthermore, the AAA's rules, which are incorporated by reference, require the right to counsel, reasonable discovery, a fair hearing and a neutral arbitrator. National Rules for the Resolution of Employment Disputes, ¶¶ 7, 11, 14, 22, 24; see also MCR 3.602. Accordingly, we find that the arbitration agreement also comports with the fairness requirement of *Rembert, supra*.

Finally, with regard to any claim that plaintiff was not bound to the arbitration agreement with regard to her nonstatutory claims for breach of contract and intentional infliction of emotional distress, "this Court has routinely held that just-cause employers can require employees to challenge breaches of just-cause employment through arbitration or other grievance procedures," *Rembert, supra* at 130. Thus, plaintiff was bound to the agreement.

IV. Claims regarding the merits of her claims of breach of contract, FMLA violations and intentional infliction of emotional distress

Plaintiff next claims on appeal that we should consider the merits of her claims in this appeal. We decline to do so. Because the arbitrator dismissed plaintiff's claims on procedural grounds, and the trial court confirmed the arbitration award, neither the arbitrator nor the trial court reached the merits of plaintiff's claims. We will not review issues that were not raised and decided by the trial court. *Providence Hospital v Nat'l Labor Union Health & Welfare Fund*, 162 Mich App 191, 194; 412 NW2d 690 (1987). Furthermore, the function of a court is limited to determining whether a party is bound to arbitrate an issue in accordance with the agreement and the existence of an agreement to arbitrate and the enforceability of its terms. *Arrow, supra* at 99; *Huntington Woods v Ajax Paving Industries, Inc (After Remand*), 196 Mich App 71, 74-75; 492 NW2d 463 (1992). There is a strong presumption of arbitrability of the merits of a claim. *United Steelworkers, supra* at 582-583; *Amtower, supra* at 235. As such, in resolving the arbitrability of particular claims, a court does not consider the merits of the underlying claims where they appear to be frivolous. See *Paine Webber, Inc v Hofman*, 984 F2d 1372, 1377 (CA

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Disputes, ¶ 1. Accordingly, the AAA's rules govern the types of relief available.

3, 1993), citing *AT&T Technologies, Inc v Communications Workers of America*, 475 US 643, 648; 106 S Ct 1415; 89 L Ed 2d 648 (1986); see also MCR 3.602(B)(4).[10]

V. Claim that defendant McKnight's prior testimony should have been allowed

Plaintiff's final claim on appeal is that the arbitrator improperly excluded the prior recorded testimony of defendant McKnight from the arbitration hearing. Pursuant to MCR 3.602(J)(1)(d), one ground for vacating an arbitration award is where the arbitrator refused to hear "evidence material to the controversy." Because the arbitrator dismissed plaintiff's claims on procedural grounds, and the trial court confirmed the arbitration award on procedural grounds, the trial court did not decide this issue; therefore, we decline to review this issue. *Providence, supra* at 194. We briefly note, however, that the exclusion of the transcript from the hearing did not prejudice plaintiff, and thus, could not be material to the controversy. In reaching its decision, the arbitrator relied on the language contained in the employment application and the Employee Handbook to conclude that plaintiff's claims were barred due to the time limitations contained in those documents. Accordingly, the exclusion of the transcript from the hearing is not grounds for vacating the award. MCR 3.602(J)(1)(d).

Affirmed.

/s/ Kathleen Jansen
/s/ Joel P. Hoekstra
/s/ Hilda R. Gage

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[10] MCR 3.602(B)(4) provides:

> An application to compel arbitration may not be denied on the ground that the claim sought to be arbitrated lacks merit or is not filed in good faith, or because fault or grounds for the claim have not been shown.